

**BOARD OF SUPERVISORS
TRANSPORTATION AND LAND USE COMMITTEE
INFORMATION ITEM**

SUBJECT: Conservation Easement Stewardship Program

ELECTION DISTRICT: Countywide

STAFF CONTACTS: Kristin Brown, Mapping and Geographic Information
Larry Stipek, Mapping and Geographic Information

PURPOSE: The purpose of this item is to provide the Board of Supervisors with information regarding the County's newly established Conservation Easement Stewardship Program.

BACKGROUND: Loudoun County is the co-holder or sole holder of approximately 450 conservation easements. A conservation easement restricts the use or development of real property for any of the following purposes:

- Retaining or protecting natural or open-space values of the property;
- Assuring its availability for agricultural, forestal, recreational, or open-space use;
- Protecting natural resources;
- Maintaining or enhancing air or water quality; or
- Preserving the historical, architectural or archeological aspects of the property

A landowner may convey such an easement to a public body or a qualified private conservation organization. In Virginia, public bodies may accept these types of easements under the Open Space Land Act, Va. Code § 10.1-1700 *et seq.* Qualifying private land trusts operate under the Conservation Easement Act, Va. Code § 10.1-1009 *et seq.*

A conservation easement is recorded in the land records and runs with the land. It may be acquired by various means – gift, purchase or as part of a local land development approval. When a landowner donates a conservation easement, there may be tax benefits depending on federal or state requirements and regulations.

When a qualified organization accepts a conservation easement, that organization has a responsibility to make sure that the terms of the easement are upheld. While some County easements have co-holding agencies with staff who work with landowners to ensure this, there are a number of conservation agreements in which the County is the sole easement holder. A Conservation Easement Stewardship Program establishes a framework within which County staff

may work with landowners to answer questions, monitor eased properties, and confirm that the terms of the easements continue to be met.

Conservation Easements in Loudoun County

There are over 65,000 acres of land protected by conservation easements in Loudoun County. Some of these easements are held by the Virginia Outdoors Foundation or private land trusts. Loudoun County holds approximately 450 conservation easements. The majority of these County easements were created as a part of the development process, such as in the creation of a rural village, rural hamlet, or low density waiver subdivision, or through proffers approved as part of a rezoning. Approximately 20 were donations unrelated to development applications or were purchased by the County. Loudoun County holds 14 easements jointly with partnering organizations, such as the Virginia Outdoors Foundation or private land trusts.

Why do we need a Conservation Stewardship Program?

Members of partnering easement-holding organizations as well as citizens have expressed concern to County Administration over the lack of a stewardship program. In 2012, stewardship organization representatives were invited to discuss the rationale behind the establishment of a County program. Some of the reasons included:

- The County shares responsibility with the landowner as well as any co-holding organization to make sure the terms of the easement agreement are met. Failing to conduct site visits puts a greater burden on the landowner to correctly interpret and follow the terms of the agreement.
- It is easier and less costly to halt or rectify an agreement violation if it is caught early.
- It allows staff to establish a central repository for conservation easement records and information.
- It creates a central point of contact for citizens to ask questions or get information about conservation easements.

Members of the Loudoun County Preservation and Conservation Coalition's Conservation Easement Committee offered to assist the County in developing a web site, forms, and letters to the owners, as well as general guidance on creating a stewardship program and in-the-field training on conducting site visits.

Elements of a Stewardship Program

Staff has set out to create a basic stewardship program that would accomplish the following:

1. Establish a process of conducting site visits to properties with conservation easements that are held or co-held by Loudoun County.
2. Create and maintain a permanent stewardship record repository.
3. Reach out to owners of properties with conservation easements to explain easement terms and facilitate on-going stewardship activities.

4. Educate the public about conservation easements.
5. Enforce, where necessary, the terms of easements.

Current Progress

In 2013, staff in the Office of Mapping and Geographic Information completed initial mapping of all conservation easements that reference with the Virginia Open Space Land Act or the Virginia Conservation Easement Act. The GIS data will be updated as new conservation easements that meet the above terms are established within the County. Information will be made available to the public via the Office of Mapping's mapping tool, WebLogis, as well as a custom, smartphone friendly interactive map.

An introductory letter to landowners has been drafted, explaining that a County staff member will be contacting them to discuss a site visit to document any changes to the property since the easement was made. A field report form has also been created. A preliminary conservation website has been launched (www.loudoun.gov/conservationeasements), with basic information on open space easements, who to contact with questions, and Frequently Asked Questions (FAQs).

In addition, staff from Mapping as well as Building and Development accompanied representatives from the Virginia Outdoors Foundation on site visits to properties with easements co-held by the County and VOF. Staff talked with landowners about the terms of easements, the history of the properties, and landowners' future plans.

Staff is in the process of establishing Memorandums of Understanding with all partner, easement-holding organizations. These are written, signed agreements regarding stewardship responsibilities of each organization.

Proposed Next Steps

As noted above, Loudoun County holds or co-holds approximately 450 conservation easements. Most of these easement agreements were created as a part of community development goals, where a permanent conservation easement was established under the village, hamlet, or low density waiver zoning options or in exchange for density considerations. Those types of easements do not qualify for federal or state tax benefits; however, they have significant value in the protection of natural, scenic and open space resources in the County. The Office of Mapping is investigating the possibility of using GIS analysis to assist in the monitoring of these particular types of easements.

There are 14 conservation easements co-held with a partnering easement organization. These include eight easements with the Virginia Outdoors Foundation, two with the Potomac Conservancy, two with the Land Trust of Virginia, and one each with the Northern Virginia Conservation Trust and the Virginia Department of Historic Resources. While Loudoun County is jointly responsible to provide stewardship for these easements, representatives from each of these organizations have been making site visits and providing stewardship per the terms of the

agreements. County staff and partnering organizations are working to write Memorandums of Understanding in order to officially establish these joint responsibilities.

This leaves approximately six easements, acquired by gift or purchase, for which the County is the sole easement holder. These easements are not currently under stewardship, and site visits to each will form Phase I of the Stewardship Program. A letter to each landowner will be sent in the summer of 2014 with information on the program and links to the website and interactive web map, as well as a request for the best contact information so that a mutually beneficial time for a site visit can be scheduled (while it's not necessary for the site owner or representative to be present for the visit, it's both recommended and preferred). The easement agreement and aerial photographs for each of the properties will be reviewed. Then, staff from Building and Development and the Office of Mapping will begin to make visits to each of the properties to talk with the landowner and document changes that have occurred since the easement agreement was made.

Future Plans

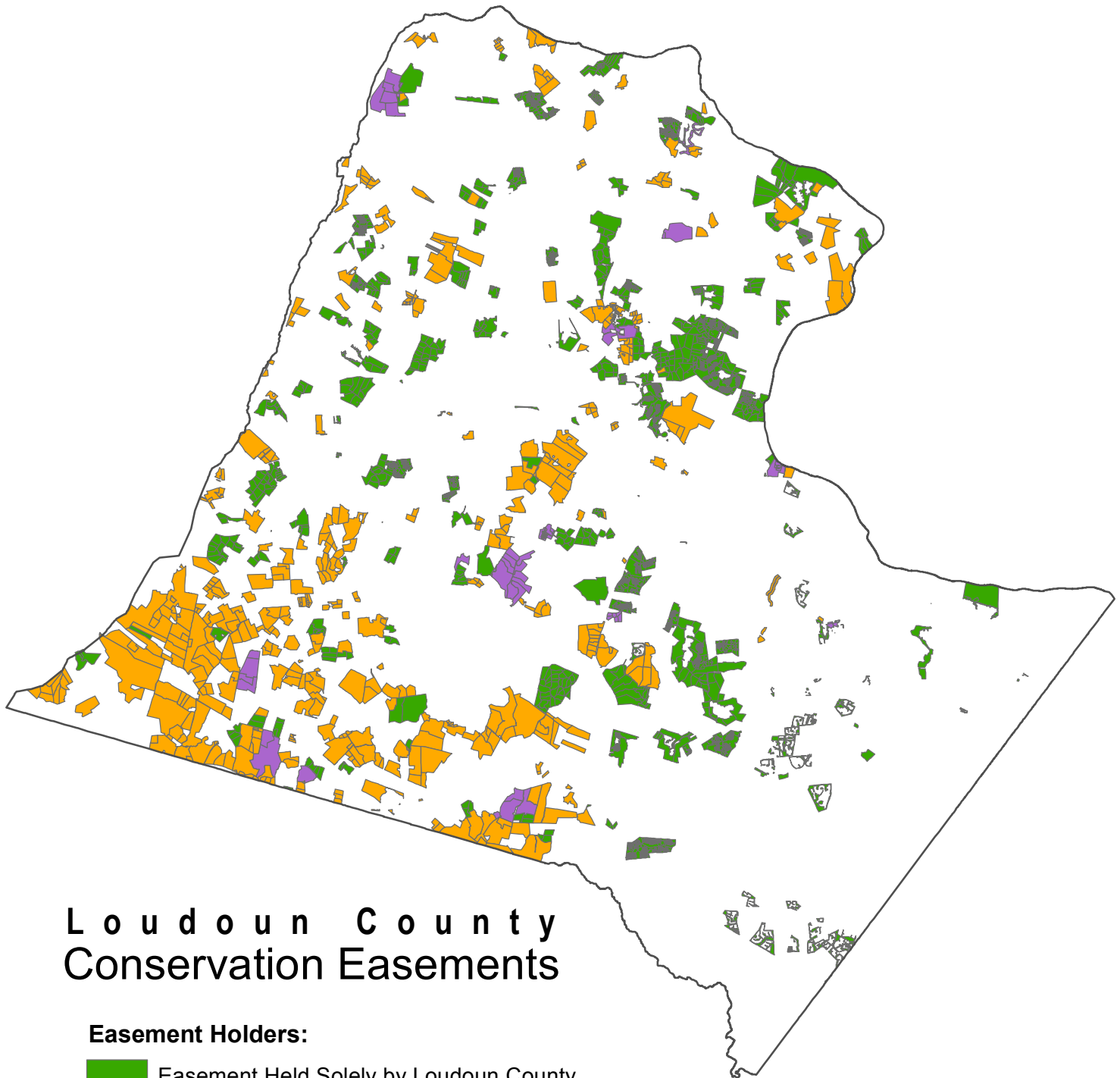
The Office of Mapping is exploring the use of GIS analysis to assist in the stewardship of the easements. "Change detection" involves the spatial comparison of the infrared bands of aerial imagery from one year with that of another year to see if differences can be detected – this could be useful in determining if alterations have been made to properties with conservation easements. The Office of Mapping began to acquire imagery with infrared bands in 2009; infrared bands are now standard components of digital aerial imagery. If successful, this process may optimize the stewardship process, particularly for easements created through the zoning process.

In addition, staff would like to implement an automated process by which an email is sent to interested parties each time a permit is pulled on a parcel with an Assessment Land Use code that indicates an easement. Staff from the Department of Information Technology has confirmed that this process will be possible once they have completed conversion of WebLMIS.

FISCAL IMPACT: The Stewardship program will be implemented with existing staff and resources.

ATTACHMENT:

1. Maps of conservation easements within Loudoun County

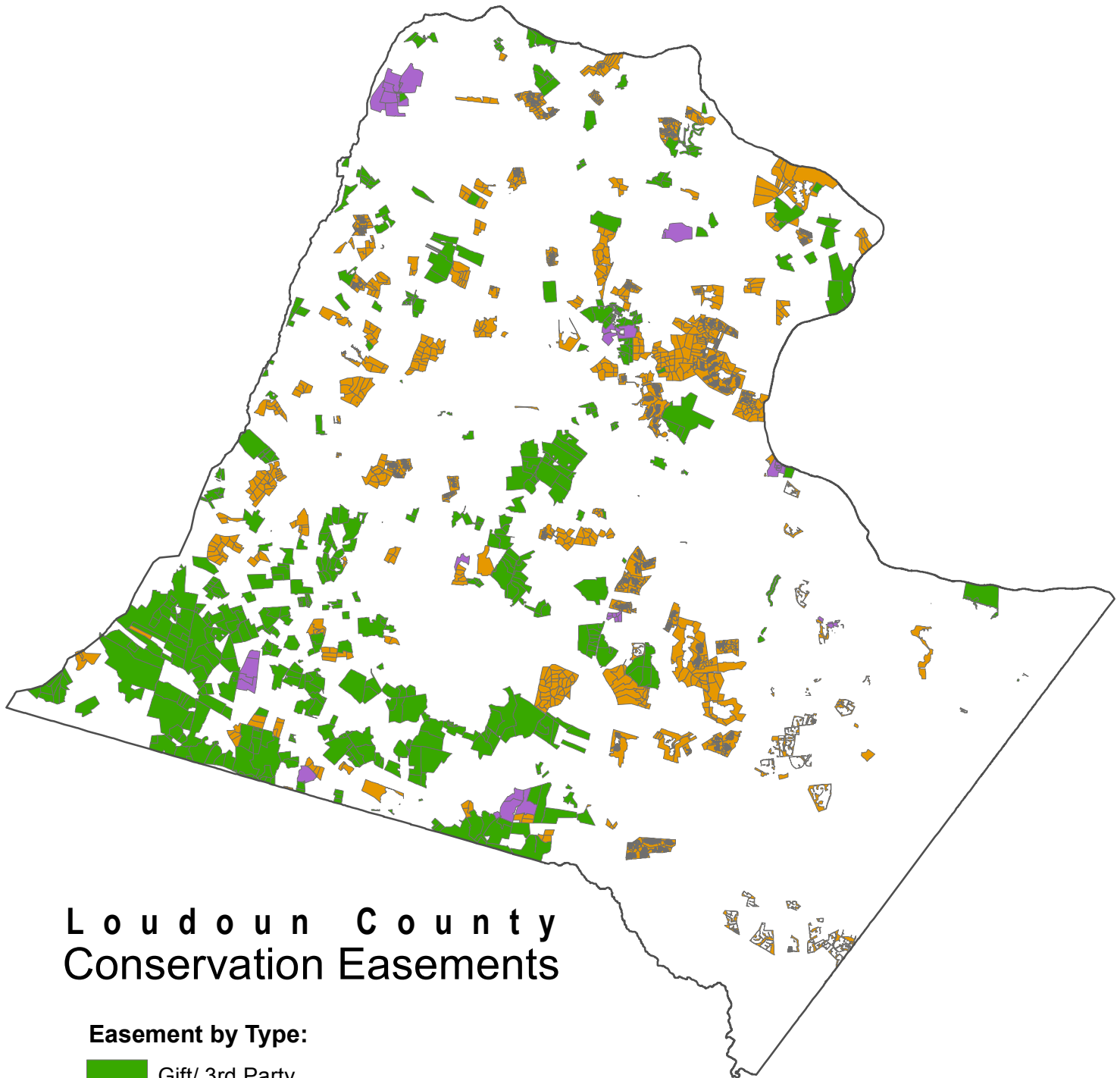


Loudoun County Conservation Easements

Easement Holders:

- Easement Held Solely by Loudoun County
- Co-held by Loudoun County + Another Organization
- Held or Co-Held by Organization(s) Other than Loudoun

Data current as of December 2013



Loudoun County Conservation Easements

Easement by Type:

- Gift/ 3rd Party
- Purchase of Development Rights
- Development

Data current as of December 2013